

1 The opinion in support of the decision being entered today was *not* written  
2 for publication in and is *not* binding precedent of the Board.

3  
4 UNITED STATES PATENT AND TRADEMARK OFFICE

5  
6  
7 BEFORE THE BOARD OF PATENT APPEALS  
8 AND INTERFERENCES

9  
10  
11 *Ex parte* DAVID A. GASPER and MEL WALTER

12  
13  
14 Appeal 2007-0895  
15 Application 09/651,983  
16 Technology Center 3600

17  
18  
19 Decided: May 16, 2007

20  
21  
22 Before MURRIEL E. CRAWFORD, LINDA E. HORNER and  
23 ANTON W. FETTING, *Administrative Patent Judges*.  
24 FETTING, *Administrative Patent Judge*.

25 DECISION ON APPEAL

26  
27  
28 STATEMENT OF CASE

29 This appeal involves claims 1-11, the only claims pending in this application.  
30 We have jurisdiction over the appeal pursuant to 35 U.S.C. §§ 6 and 134.

31  
32 We AFFIRM-IN-PART.

The Appellants invented a system for replenishing the currency supplies within Automated Teller Machines (ATMs), and which (1) does not require the service teams which perform the replenishment to actively report either the amounts of replenishment, or the fact that replenishment occurred, and (2) uses the ATMs to track the performance of the service teams (Specification 1). An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. In connection with operation of a system of ATMs, each of which contains at least one computer, a method comprising the following steps:

- a) identifying low-stocked ATMs, which require replenishment of currency;
- b) causing replenishment of currency in low-stocked ATMs to occur;
- c) receiving replenishment signals from the replenished ATMs; and
- d) using the replenishment signals, and without using communications from parties performing the replenishment, preparing one, or more, reports concerning the ATMs replenished.

This appeal arises from the Examiner's Final Rejection, mailed August 1, 2005. The Appellants filed an Appeal Brief in support of the appeal on January 12, 2006, and the Examiner mailed an Examiner's Answer to the Appeal Brief on June 16, 2006. A Reply Brief was filed on August 21, 2006.

## PRIOR ART

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Ross US 5,945,602 Aug. 31, 1999

Clark US 6,378,770 B1 Apr. 30, 2002  
(Apr. 20, 1998)

#### REJECTIONS

Claims 1-3 and 10 stand rejected under 35 U.S.C. § 102(e) as anticipated by Clark.

Claims 4, 8, and 11 stands rejected under 35 U.S.C. § 103(a) as obvious over Clark.

Claims 5, 6, 7, and 9 stands rejected under 35 U.S.C. § 103(a) as obvious over Ross and Clark.

#### ISSUES

The issues pertinent to this appeal are

- Whether the rejection of claims 1-3 and 10 under 35 U.S.C. § 102(e) as anticipated by Clark is proper.
  - Whether the art applied shows using the replenishment signals, and without using communications from parties performing the replenishment, preparing one, or more, reports concerning the ATMs replenished (Claims 1-3 and 10; Br. 12-22)
- Whether the rejection of claims 4, 8, and 11 rejected under 35 U.S.C. § 103(a) as obvious over Clark is proper.
  - Whether the art applied shows or suggests generating a list of ATMs scheduled to be replenished and the amounts to be replenished in each, receiving signals from the ATMs as each is entered, and preparing a report based on the signals after replenishment indicating

1 the what was scheduled and what was performed (Claims 8 and 11,  
2 Br. 32-38).

- 3 • Whether the rejection of claims 5, 6, 7, and 9 rejected under 35 U.S.C.  
4 § 103(a) as obvious over Ross and Clark is proper.

- 5 ○ Whether the art applied shows or suggests designating ATMs as  
6 having been replenished based on designating a scheduled time for  
7 replenishing a particular group of ATMs and the concurrent actions of  
8 detecting entry into an ATM, sensing that the entered ATM is a  
9 member of the designated group, and sensing that entry occurred  
10 within the schedule time (Claim 5; Br. 38-46).

- 11 ○ Whether the art applied shows or suggests adjusting the estimate of an  
12 ATM's contents based on scheduling replenishment of a particular  
13 subset of ATMs and the concurrent actions of detecting entry into an  
14 ATM, and sensing that the entered ATM is a member of the  
15 designated subset, and if entry occurs for an ATM not in the  
16 designated subset, contacting a law enforcement agency (Claim 6; Br.  
17 25-31).

18 In particular, the Appellants contend that Clark requires a technician to enter  
19 information (Claim 1; Br. 13); that Clark does not show preparing a report  
20 including the claimed data (Claim 8; Br. 35-37); that the art applied fails to show  
21 designation of a group of ATMs or scheduled times of replenishment (Claim 5; Br.  
22 40) and the security feature resulting from detecting entry of an ATM not so  
23 designated (Claim 6; Br. 28-30).

FACTS PERTINENT TO THE ISSUES

The following Findings of Fact (FF), supported by a preponderance of evidence, are pertinent to the above issues.

01. Clark describes an ATM that, on completion of a PURGE sequence, the operator is requested to input data concerning the full cassettes 40 to be inserted in the ATM, including a cassette identification code and the amount and denomination of the currency notes contained in the cassette before access to the cassette compartments 42 of the ATM is allowed. This data is input by the operator via the key pad 27 of the operator panel 26 in step 136 and is stored in the memory 34 of the ATM 10. The balance of notes in each cassette 40 can therefore be updated during subsequent transactions involving dispensing of notes from that particular cassette 40. An updated ATM STATUS REPORT based on the input data is sent to the host computer in step 138. (Clark, col. 6, ll. 40-53).
02. Thus, Clark's report is based on the input data that is sent by the operator.
03. The Examiner contends that the operator does not prepare the report (Answer 14).
04. However, claim 1 requires that the report is prepared without using data from the operator.
05. Thus, Clark does not show using the replenishment signals, and without using communications from parties performing the replenishment, preparing one, or more, reports concerning the ATMs replenished.

1       06.   Clark shows that the operator signals entry into the ATM and the amount  
2           that is entered into the ATM (FF 01).

3       07.   ATMs owned by banks are owned by business entities that are subject to  
4           rigorous auditable accounting controls, which include preparing plans  
5           (i.e. lists) of how and when operations are maintained and the results of  
6           such maintenance.

7       08.   Thus, a person of ordinary skill in the art of ATM maintenance would  
8           have immediately envisaged generating a list of ATMs to be replenished  
9           and the amounts to be replenished in each, receiving signals from the  
10          ATMs as each is entered, and preparing a report after replenishment  
11          indicating what replenishment was scheduled and what was actually  
12          performed.

13      09.   Clark describes servicing a single ATM and describes the operator  
14          indicating the amount replenished (FF 01).

15      10.   Ross does not describe ATM replenishment.

16      11.   Thus, the combination of Ross and Clark does not show or suggest  
17          designating a group of ATMs and indicating replenishment from an  
18          entry signal.

19      12.   The Examiner contends that scheduling and designating is obvious  
20          (Answer 22).

21      13.   The Examiner contends that having scheduled designated ATMs for  
22          replenishment, designating them as having been replenished would have  
23          been obvious after the scheduled time frame (Answer 22).

1       14.   Thus, the Examiner is making a conclusory argument of obviousness  
2           instead of putting forth evidence to show how the further claimed  
3           criterion of detecting entry within that time frame for a member of the  
4           designated group is shown or suggested.

5       15.   Thus, the Examiner has not shown that the combination of Ross and  
6           Clark shows or suggests designating ATMs as having been replenished  
7           based on designating a scheduled time for replenishing a particular  
8           group of ATMs and the concurrent actions of detecting entry into an  
9           ATM, sensing that the entered ATM is a member of the designated  
10          group, and sensing that entry occurred within the schedule time.

11      16.   Ross states that police are alerted to an ATM if an acoustic sensor  
12          detects an abnormal signal (Ross, col. 8, ll. 24-27).

13      17.   The Examiner contends that contacting a law enforcement agency is  
14          proper because it is not appropriate to try to fight thieves (Answer 19).

15      18.   However, the Examiner has not put forth evidence to show the claimed  
16          criterion for contacting a law enforcement agency as the confluence of  
17          scheduling replenishment of a particular subset of ATMs, the concurrent  
18          actions of detecting entry into an ATM, and sensing that the entered  
19          ATM is a member of the designated subset, and entry occurring for an  
20          ATM not in the designated subset.

21      19.   Thus, the Examiner has not shown that the combination of Clark and  
22          Ross shows or suggests adjusting the estimate of an ATM's contents  
23          based on scheduling replenishment of a particular subset of ATMs and  
24          the concurrent actions of detecting entry into an ATM, and sensing that  
25          the entered ATM is a member of the designated subset, and if entry

1 occurs for an ATM not in the designated subset, contacting a law  
2 enforcement agency.

3 ANALYSIS

4 *Claims 1-3 and 10 rejected under 35 U.S.C. § 102(e) as anticipated by Clark.*

5 From the Findings of Fact, *supra*, we conclude that

- 6 • The art applied fails to show using the replenishment signals, and without  
7 using communications from parties performing the replenishment, preparing  
8 one, or more, reports concerning the ATMs replenished (FF 05) (Claims 1-3  
9 and 10; Br. 12-22).

10 Accordingly we do not sustain the Examiner's rejection of claims 1-3 and 10  
11 under 35 U.S.C. § 102(e) as anticipated by Clark.

12  
13 *Claims 4, 8, and 11 rejected under 35 U.S.C. § 103(a) as obvious over Clark.*

14 From the Findings of Fact, *supra*, we conclude that

- 15 • The art applied shows or suggests generating a list of ATMs to be  
16 replenished and the amounts to be replenished in each, receiving signals  
17 from the ATMs as each is entered, and preparing a report after  
18 replenishment indicating the what was scheduled and what was performed  
19 (FF 08) (Claims 8 and 11, Br. 32-38).

20 The Appellants contend that there are not plural ATMs and that signals from a  
21 single ATM cannot indicate the claimed information (Br. 35). As to whether plural  
22 ATMs are replenished, a person of ordinary skill in the art would envision that  
23 banks owning many ATMs would have to replenish all of them at some points in  
24 time. As to whether the signals can indicate the claimed information, we note that



1 claim 8 uses the very broad phrase “based on the signals”, so that the claim  
2 requires some basis for the information relying on the signals. Clark’s signals  
3 actually convey the amount replenished thus establishing such a basis (FF 09).  
4 Thus, the Appellants’ contentions do not show reversible error on the part of the  
5 Examiner.

6 However, the art applied fails to show or suggest the subject matter not  
7 found in claim 1, *supra*, and therefore fails to show or suggest the subject matter  
8 of claim 4.

9 Accordingly we sustain the Examiner's rejection of claims 8 and 11, but we do  
10 not sustain the rejection of claim 4, under 35 U.S.C. § 103(a) as obvious over  
11 Clark.

12  
13 *Claims 5, 6, 7, and 9 rejected under 35 U.S.C.*  
14 *§ 103(a) as obvious over Ross and Clark.*  
15

16 From the Findings of Fact, *supra*, we conclude that

- 17 • The art applied fails to show or suggest designating ATMs as having been  
18 replenished based on designating a scheduled time for replenishing a  
19 particular group of ATMs and the concurrent actions of detecting entry into  
20 an ATM, sensing that the entered ATM is a member of the designated group,  
21 and sensing that entry occurred within the schedule time (FF 15) (Claim 5;  
22 Br. 38-46).
- 23 • The art applied fails to show or suggest adjusting the estimate of an ATM’s  
24 contents based on scheduling replenishment of a particular subset of ATMs  
25 and the concurrent actions of detecting entry into an ATM, and sensing that

1 the entered ATM is a member of the designated subset, and if entry occurs  
2 for an ATM not in the designated subset, contacting a law enforcement  
3 agency (FF 19) (Claim 6; Br. 25-31).

4 The art similarly fails to show or suggest the subject matter of claims 7 and 9  
5 for the same reasons as their parent claim 6. Accordingly we do not sustain the  
6 Examiner's rejection of claims 5, 6, 7, and 9 under 35 U.S.C. § 103(a) as obvious  
7 over Ross and Clark.

8 DECISION

9 To summarize, our decision is as follows:

- 10 • The rejection of claims 1-3 and 10 under 35 U.S.C. § 102(e) as anticipated  
11 by Clark is not sustained.
- 12 • The rejection of claims 8 and 11 under 35 U.S.C. § 103(a) as obvious over  
13 Clark is sustained.
- 14 • The rejection of claim 4 under 35 U.S.C. § 103(a) as obvious over Clark is  
15 not sustained.
- 16 • The rejection of claims 5, 6, 7, and 9 under 35 U.S.C. § 103(a) as obvious  
17 over Ross and Clark is not sustained.

18 No time period for taking any subsequent action in connection with this appeal  
19 may be extended under 37 CFR § 1.136(a).

20 AFFIRMED-IN-PART  
21

22  
23  
24 vsh

Appeal 2007-0895  
Application 09/651,983

1 MICHAEL CHAN  
2 NCR CORPORATION  
3 1700 SOUTH PATTERSON BLVD  
4 DAYTON OH 45479-0001